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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Initial reports of States parties due in 1994

Addendum

NIGERIA 1/

[7 February 1996]

On 29 November 1995, the Chairman of the Human Rights Committee, acting under rule 66, para. 2 of the Committee's rules of procedures on behalf of and in consultation with the members of the Committee, requested the Government of Nigeria to submit its initial report without delay for discussion by the Committee at its fifty-sixth session to be held from 18 March to 4 April 1996 and, in any event, to submit by 31 January 1996 a report, in summary form if necessary, relating in particular to the application at the present time of arts. 6, 7, 9 and 14 of the Covenant.

GE.96-15399 (E)

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I. GENERAL

1. The present Government of Nigeria came into office on 17 November 1993. A well-organized census exercise was carried out in all the 30 States of Nigeria as well as the Federal Capital Territory, Abuja in 1991. The census provisional figures are as listed below:

State	Males	Females	Total
Lagos	2 999 526	2 686 253	6 685 781
Kano	2 858 724	2 773 316	5 632 040
Sokoto	2 188 111	2 234 280	4 392 391
Bauchi	2 202 962	2 091 451	4 294 413
Rivers	2 079 583	1 904 274	3 983 857
Kaduna	2 059 382	1 909 870	3 969 252
Ondo	1 958 928	1 925 557	3 884 485
Katsina	1 944 218	1 934 126	3 878 344
Oyo	1 745 720	1 743 069	3 488 789
Plateau	1 645 730	1 633 974	3 282 704
Enugu	1 482 245	1 679 050	3 161 295
Jigawa	1 419 726	1 420 203	2 829 929
Benue	1 385 402	1 394 996	2 380 398
Anambra	1 374 801	1 393 102	2 767 903
Borno	1 327 311	1 269 278	2 596 589
Delta	1 273 208	1 296 973	2 570 181
Imo	1 178 031	1 307 468	2 482 367
Niger	1 290 720	1 191 647	2 482 367
Akwa Ibom	1 162 430	1 197 306	2 359 736
Ogun	1 144 907	1 193 663	2 338 570
Abia	1 108 357	1 189 621	2 297 978
Osun	1 079 424	1 123 592	2 203 016
Edo	1 082 718	1 077 130	2 159 848
Adamawa	1 884 824	1 039 225	2 124 049
Kogi	1 055 964	1 043 082	2 099 046
Kebbi	1 024 334	1 037 892	2 062 226
Cross River	1 945 270	920 224	1 865 604
Kwara	790 921	775 548	1 566 469
Taraba	754 754	725 836	1 480 590
Yobe	719 763	691 718	1 411 481
Abuja FCT	208 535	172 136	378 671
Country's Total	44 544 531	43 969 970	88 514 501

2. Further information on the country's population, which is available and provided below, shows the different regions, states and local government authorities:

Region	State	Local government areas	1991
	Nigeria	593	88 514
	Bauchi	23	4 294
	Borno	21	2 597
	Yobe	13	1 411
	Adamawa	16	2 124
	Taraba	12	1 481
	Niger	19	2 482
	Sokoto	29	4 392
	Kebbi	16	2 062
Northern region	Kwara	12	1 566
	Kogi	16	2 099
	Benue	18	2 780
	Plateau	23	3 284
	Kano	34	5 632
	Jigawa	22	2 830
	Kaduna	18	3 969
	Katsina	25	3 878
	Anambra	16	2 768
	Enugu	19	3 161
	Imo	21	2 485
Eastern region	Abia	17	2 294
	C. River	14	1 866
	Akwa	24	2 360
	Rivers	24	3 984
	Ikeja		
	Oyo	25	3 489
Western region	Osun	23	2 203
	Ondo	26	3 884
	Ogun	15	2 339
Mid-western region	Edo	14	2 160
	Delta	19	2 570
Lagos	Lagos	15	5 586
	FCT	4	379
Four regions and Lagos	30 States and FCT FCT	593 LGAS	30 States and FCT

3. The rights provided in the Covenant are all recognized in the Constitution of the Federal Republic of Nigeria and are protected by virtue of chapter IV of the Constitution of the Federal Republic of Nigeria 1979 as amended.

4. One of the rules of procedure for the realization of almost all the rights contained in the Covenant is The Fundamental Human Rights Enforcement Procedure Rules 1979. These rules were introduced by the Chief Justice of Nigeria pursuant to the constitutional power conferred on him in section 42 (3) of the Constitution of the Federal Republic of Nigeria as amended. The subsection provides thus: "the Chief Justice of Nigeria may make rules with respect to the Practice and Procedure of a High Court for the purposes of this section on human rights".

5. The provisions of the Covenant as enshrined in the Constitution can be invoked. Thus, the Supreme Court has decided in many cases that international covenants on human rights to which Nigeria is a signatory are enforceable in Nigeria like any municipal law. This was the unanimous decision of the Supreme Court in the case of Ogugu v. State (1994). However, there are instances where the Nigerian Government has to pass a municipal law to give an international covenant legal recognition and to provide the ground for its enforceability. This was what led to the promulgation of the African Charter on Human and People's Rights (Ratification and Enforcement Act), Cap 10, Laws of the Federation of Nigeria 1990, to give the African Charter its legal recognition in the country and to make it enforceable throughout the Federation.

6. In Nigeria, judicial authorities and competent administrative institutions have been directed to give recognition to the enjoyment of human rights. This is the import of section I of the African Charter on Human and People's Rights (Ratification and Enforcement Act). The section provides, "as from the commencement of this Act, the provisions of the African Charter on Human and People's Rights which are set out in the Schedule to this Act, shall subject as thereunder provided have force of law in Nigeria and shall be given full recognition and effect and be applied by authorities and persons exercising legislative, executive or judicial powers in Nigeria".

7. Nigerian law also provides for remedies for whoever claims that any of the rights contained in any of the articles and recognized by the Nigerian Constitution has been violated with respect to him. Nigerian law also recognizes the right to compensation in respect of immovable property compulsorily acquired by the Government, for over-riding public interest. This recognition is contained in section 40 of the Constitution of the Federal Republic of Nigeria a amended. This section makes prompt payment of compensation a condition precedent to the validity of acquisition.

8. Where the individual is entertaining fears of likely violation of his rights, the Constitution of the Federal Republic of Nigeria makes adequate provision that such a person need not wait until the violation is inflicted but can seek redress in court to forestall the violation. This is provided for in section 42 (1) of the Constitution of the Federal Republic of Nigeria as amended, which provides that "Any person who alleges that any of the

provisions of this Chapter has been, is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress".

9. Apart from these constitutional provisions put in place to ensure the implementation of the provisions of the Covenant, there is a National Human Rights Commission established in Nigeria to ensure the realization of these rights. Among other things, the Commission is charged with the responsibility of dealing with matters relating to the protection of human rights as guaranteed by the Constitution of the Federal Republic of Nigeria 1979 as amended, the African Charter on Human and People's Rights, the Charter of the United Nations and the Universal Declaration of Human Rights and other international treaties on human rights to which Nigeria is a signatory.

II. IMPLEMENTATION OF ARTICLES 1-27 OF THE COVENANT

Article 1 - Right of self-determination

10. Nigeria is a Federation that gives full recognition to the provisions of article 1. Section 17 of the 1979 Constitution provides for the social objectives of the Government of Nigeria and gives the citizens of Nigeria equality of rights, obligations and opportunities before the law. The same section provides for the sanctity of the human person and gives recognition to human dignity by providing expressly that Government shall be humane. It prevents exploitation of human or natural resources in any form except for the good of the entire community.

11. Article 1 also provides for the cultural development of each part of a State. This is being scrupulously implemented in Nigeria. Thus, it is provided in section 20 of the Nigerian Constitution as amended that "The State shall protect and enhance Nigerian Culture". The principle of a national ethic is also constitutionally recognized in Nigeria. Section 22 of the Nigerian Constitution provides that "The National Ethic shall be discipline, self-reliance and patriotism" and that "the State shall promote African Unity as well as total political, economic, social and cultural liberation of Africa and all other forms of International cooperation conducive to the consolidation of universal peace and mutual respect and friendship among all peoples and State and shall combat racial discrimination in all its ramifications".

12. The Nigerian Government recognizes the right of the people to have a peaceful Government. In this direction, the Government of Nigeria has extended cooperation and assistance to ensure universal peace and mutual respect. Thus, in the international sphere, Nigeria has traditionally been a strong proponent and supporter of the right to self-determination. Its contribution to the struggle for the liberation of Angola, Mozambique, Zimbabwe and Namibia and the eradication of apartheid in South Africa is a matter of public record.

13. Also, there is freedom to dispose of one's wealth and resources in Nigeria as enshrined in article 1, paragraph 2, of the International Covenant on Civil and Political Rights: "No movable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or

interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by the law that, among other things, required a prompt compensation thereof". Section 40 (A) of the Constitution gives any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation thereof. It is worthy of note that there is no single report of any acquisition either by the Government of Nigeria or its agencies contrary to this provision.

14. Where an individual interest clashes with that of the Government, laws are made stipulating how each of the interests must be adequately taken care of. (Asset, title, vesting and validation) Decree No. 11 of 1992, section 4, subsection 1, provides that "The Federal Military Government may where it deems fit or proper make an ex-gratia payment to any person who has been or is being affected by this Decree". By the provision of this section, the Office of the President of Nigeria always intervenes to protect the private interest over property clashing with that of the Government. Thus, section 4 (2) provides "The amount of payment to be made to any person to whom subsection 1 of this Section is applicable shall be as may be determined by the President, Commander-in-Chief of the Armed Forces acting solely in accordance with his discretion".

Article 2 - Rights recognized in the Covenant

15. The general intention of this article has been given constitutional recognition in Nigeria. The Federal Republic of Nigeria ensures the observance and unhindered exercise of all the rights and freedoms enunciated in this article without distinction as to sex, race, nationality, religion, social origin, political convictions or other status. Thus, it is provided in section 39 (1) of the Constitution of the Federal Republic of Nigeria 1979 as amended that:

> "A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:
>
> "(a) be subjected either expressly or in the practical application of any law in force in Nigeria or any executive or administrative action of the government to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinion are not made subject or
>
> "(b) be accorded either expressly by or in the practical application of any law in force in Nigeria or any executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria, of other communities, ethnic groups, places of origin, sex, religion or political opinions."

According to section 39 (2), "No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth."

16. In addition, the Federal Republic of Nigeria has passed a series of laws on a wide range of political, economic, social and cultural matters which fully conform to the fundamental principle of barring discrimination and respect for human rights and the secularity of the Nigeria State. Thus it is provided in section 10 of the Constitution of the Federal Republic of Nigeria 1979 as amended that the "Government of the Federation of Nigeria or of a State within Nigeria shall not adopt any religion as State religion."

17. The existing legislation in Nigeria has ample provisions for the protection of aliens within the country. Section 29 (i) and (ii) of the Constitution of the Federal Republic of Nigeria 1979 as amended empowers the President of Nigeria to make rules and regulations for the realization of the right of any person in Nigeria, including aliens. The Nigerian courts have been empowered by the express provision of section 17 (2), paragraph (e), to entertain matters arising from the grievances of any person resident in Nigeria. Section 42 of the Constitution allows any person, alien or indigen, power to seek redress in the High Court. Recently, by the express provision of the Constitution, Suspension and Modification Decree 107 (sect. 230), this power was extended to the Federal High Court.

18. To ensure a clear realization of this principle, every aggrieved person has the right to be fairly heard under Nigerian law. Under the Nigerian judicial system, the regular courts, e.g. High Courts, and special tribunals are recognized. These are provided for in section 6 of the 1979 Constitution of the Federal Republic of Nigeria as amended and are equally recognized by the Covenant in article 14.

19. For the purpose of realizing the provisions of the Covenant, the decisions of the Court referred to are not final. There are rights for the aggrieved party to appeal. The circumstances under which an aggrieved person can appeal as of right or with the leave of court are equally provided for in the Constitution. Section 220 of the Constitution catalogues instances where an aggrieved person can appeal as of right the decision of the High Court. Section 221 of the Constitution gives instances when an aggrieved person can appeal with the leave of the court. Decisions by tribunals are subject to appeal which is constitutionally recognized in Nigeria by virtue of the provisions of section 225. The judgements are binding on every citizen, including the executive, and all executive attempts to tame the court have been constitutionally restrained.

20. The rights of individuals in criminal matters are provided for in the Nigerian Criminal Code and enforceability of these rights is provided for in the Criminal Procedure Code. The Constitution of the Federal Republic of Nigeria, which is the supreme law of the land, sets out in detail the procedures for handling a criminal charge brought against any person in Nigeria. Section 33 of the Constitution provides that "Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty". Subsection 6 of the same section provides that "Every person who is charged with a criminal offence shall be entitled (a) to be informed promptly in the language that he understands and in detail of the nature of the offence; (b) to be given adequate time and facilities for the preparation of his defence; (c) to defend himself in person or to be defended by a legal practitioner of his choice; (d) to examine in person or by his legal

practitioner all the witnesses called by the prosecution before the court; (e) to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the offence. Other minor details of procedures for the trial of criminal matters are provided for in subsection 7-12 of the same section of the Nigerian Constitution.

21. The Courts in Nigeria have decided many cases based on this procedure. For example, in the case of Dr. Olu Onagoruwa v. Inspector-General of Police (1991), the Court of Appeal held that section 4 of the Nigerian Police Act, which gives the police wide powers, is not a licence to be used against the citizens of the country. Accordingly, the Court found the police guilty of infringement of the right of Dr. Olu Onagoruwa even though the police were performing their official duty. The Government obeyed that order.

22. The provision of section 15 (2) of the Nigerian Constitution, which stipulates that "national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited", is being upheld. In furtherance of this policy of national integration, the Federal Government of Nigeria promulgated Decree No. 33 of 9 July 1992 which brought into existence the Oil Mineral Producing Areas Development Commission (OMPADEC). The Commission has special funds for the mineral-producing areas. The Federal Government increased the special fund for the oil-producing areas from 1.5 per cent to 3 per cent of the Federal Account. The Commission was charged with the task of determining and identifying the actual oil-producing areas and to embark on the development of projects which were agreed upon by the local communities. It also has the duty of liaising with the oil companies in the area on matters of pollution control and effective methods of tackling oil spillage.

23. It is important to state that despite the Constitution (Suspension and Modification) Decree No. 107 of 1993 which amended the 1979 Constitution, chapter IV of the 1979 Constitution implements article 11 of the Convention.

Article 3 - The equality of rights between men and women

24. The Constitution of the Federal Republic of Nigeria makes adequate provisions for equality of women. Section 39 elaborates extensively the right of freedom from discrimination. However, this has not stopped discrimination against women. In practice, the ratio of women holding governmental positions is minimal: out of the 36 ministerial positions in the Federal Government, three are occupied by women. Also, fewer women than men hold the post of Director-General.

25. This notwithstanding, strenuous efforts are being made to elevate the status of women. The Better Life for Rural Women was established to enhance the status of women in the rural areas in particular. At the same time, the National Commission for Women was established by the Government to cater exclusively for women. In addition, the Family Support Programme established by the present First Lady, Mrs. Mariam Abacha, has culminated in the establishment of the Ministry of Women's Affairs and Social Welfare.

26. In each State of the Federation, including Abuja, the Government is actively encouraging the education of women by establishing two secondary schools in each State, one exclusively for girls and the other for both boys and girls. There is active participation by Nigerian women in international conferences, seminars, workshops, etc. Women have equal right to vote and be elected. In the past, women could not obtain loans in financial institutions without the consent of their husbands; as a result they could not own real property, but this is no longer the case.

Article 4 - Declaration of public emergency

27. The provisions of Nigerian law recognize and make adequate allowances for situations that may arise at the time of emergency. The purpose of a state of emergency is to protect public safety, public order, public morality, public health and national defence and it also includes attempts by the Government to protect the rights and freedom of other persons. These purposes are provided for in section 4 (1) (a) and (b) of the 1979 Constitution of the Federal Republic of Nigeria as amended.

28. There is a procedure for declaring a state of emergency by the President of the Federal Republic of Nigeria and it is as follows:

(a) The proclamation shall be published in the Official Gazette;

(b) The Official Gazette containing the proclamation shall be transmitted immediately to the President of the Senate and the Speaker of the House of Representatives who shall each immediately convene meetings of the respective Houses to pass a regulation approving or not approving the proclamation;

(c) The proclamation issued by the President of the Federal Republic of Nigeria shall cease to have effect if:

(i) The President himself revokes it and the revocation is published in the Official Gazette;

(ii) The National Assembly refuses to ratify the proclamation;

(iii) The National Assembly shall be deemed to have refused to ratify the proclamation if while they are in session they could not give the approval within two days, and if they are not in session they could not give the approval within 10 days;

(iv) The proclamation would cease to have effect after a period of six months has elapsed since it has been in force, although the National Assembly can extend the life of the proclamation before the expiration of the initial six months.

29. Section 265 of the Constitution enumerates extensively the measures that shall be taken when the President declares a state of emergency:

(a) When the Federation is at war, movement towards the warring parts are restricted;

(b) When the Federation is in imminent danger of invasion of involvement in the State war. This situation occurred in Nigeria several times.

30. When there is actual breakdown of public order and safety in the Federation or any part thereof to such an extent as to require extraordinary measures to restore peace and security, an immediate curfew from dusk to dawn is always imposed. Where there is a public danger which clearly constitutes a threat to the existence of the Federation, emergency measures are taken. These may include closure of media that are considered to constitute the said threat.

Article 5 - Limitation by law

31. The Constitution of the Federation Republic of Nigeria defines the range of human rights and freedoms and the scope for their realization. The enjoyment of those rights has culminated in the emergence of many human rights groups. Examples are the Campaign for Democracy, the Civil Liberties Organization, the Committee for the Defence of Human Rights, among others. Recently, the Government of the Federal Republic of Nigeria officially constituted the Human Rights Commission under the Chairmanship of the Attorney General of the Federation to harmonize the activities of the human rights organizations for the benefit of all.

32. The Federal Republic of Nigeria adheres to the provision in article 5, paragraph 2, that there shall be no restriction upon or derogation from the fundamental rights recognized in the Nigerian Constitution, chapter IV of which states

> "With regard to the obligation on any State group or person not to engage in any activity or perform any act aimed at the destruction of rights and freedoms recognized in the Covenant:
>
> (1) The State shall respect the citizens and protect the rights and freedoms of citizens. This is a duty on all State organs and public organizations and officials.
>
> (2) The exercise of one's rights and freedom shall be inseparable from fulfilment by the citizen of his obligation.
>
> (3) A citizen of Nigeria has a duty to respect the rights and legitimate interest of other persons."

33. The Criminal Code as well as the Criminal Procedure Act prescribe punishment for acts infringing the rights and freedoms of other citizens, obstruction of the exercise of equal rights for women, breach of the inviolability of the home, violation of the secrecy of correspondence, telephone conversations and telegraphic communications, obstruction of the

exercise of the right to vote, violation of labour organizations, violation of occupational rights, breach of intellectual property, deprivation of performance of one's religious rites.

34. The obligation to observe the rights of other citizens is prescribed in many other laws enforceable in Nigeria. The Nigeria Media Council Act provides for a code of conduct for journalists practising in Nigeria and places them under a duty to respect the honour and dignity, rights and legitimate interests of citizens and organizations and strictly to observe journalistic ethics in gathering and imparting news and other material.

Article 6 - Right to life

35. The right to life, which forms the basis of the entire range of human rights, is the subject of section 30 of the Nigerian Constitution. Section 30 (1) provides that "Every person has right to life and no one shall be deprived intentionally of his life except in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria". Under the Army Act of Nigeria 1960 (now part of the Laws of the Federation 1990) the offences of treason, mutiny and armed robbery and proven cases of intentional murder carry the death penalty.

36. However, the issue of amnesty is constitutionally recognized in Nigeria in a dual capacity: amnesty in respect of federal offences and amnesty within any state of the Federation. The power to grant amnesty in respect of federal offences is conferred on the President of the Federal Republic of Nigeria by section 161 of the 1979 Constitution of the Federal Republic of Nigeria as amended while amnesty in respect of any offence against any of the States is conferred on the governor of the State by the provisions of section 192 of the Constitution. The power of the President under section 161 to grant amnesty or the prerogative of mercy is exercised after consultation with the Council of State and this power extends to offences against the State, against the naval laws, military or air force laws, or sentence by a court martial. This power was exercised in respect of the aborted coup d'état in March 1995 when the President commuted the various death sentences to jail terms.

37. The Children and Young Persons Act of Nigeria 1959, now part of the Laws of the Federation 1990, abolished the death penalty for persons under the age of 18 while the Criminal Code Act abolished death sentences on pregnant women and persons of unsound mind.

38. The death penalty is carried out in respect of a final judgement in Nigeria given by a competent court or tribunal.

39. The Federal Republic of Nigeria supports the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide. A deprivation constituting the crime of genocide will be punishable as murder in the Nigerian legal system as stipulated in section 315 of the Criminal Code Act of the Federal Republic of Nigeria and section 9 of the Civil Disturbances Decree of 1992.

40. The Nigerian Government has taken numerous measures to lower infant mortality and to increase life expectancy by adopting stringent conditions for

the elimination of malnutrition and epidemics. Examples are the Guinea worm eradication programme, the oral rehydration therapy programme and the Diphtheria, Tetanus, Polio vaccine. With respect to malnutrition, numerous measures were taken in Nigeria to educate mothers and provide the necessary remedy - the Better Life for Rural Women, the Family Support Programme and the MAMSER programme.

41. The Criminal Law of the Federal Republic of Nigeria protects to a considerable degree the life of an unborn child. Section 228 of the Criminal Code Act provides for 14 years' imprisonment for any person attempting to perform an abortion on another while section 229 provides for 7 years' imprisonment for any person attempting to perform an abortion on herself and section 230 provides for 3 years imprisonment for any person supplying drugs or instruments for an abortion.

42. A wrongful act or omission causing death can give rise to an action for damages in tort. If Death arose out of or in the cause of the deceased's employment, compensation may be paid under the Workmen's Compensation Act. If the death was caused by a wrongful act, neglect or the default of another, irrespective of whether such amounted in law to a crime, Common Law allows the personal representatives of the deceased to bring an action for damages for loss of economic or material advantage on behalf of those members of the deceased person's family who sustained that damage by reason of that death.

Article 7 - Protection from torture

43. Under the Constitution of the Federal Republic of Nigeria, the provisions of article 7 are prescribed in section 31 of the 1979 Constitution of the Federation as amended. Section 31 (1) provides that "Every individual is entitled to respect for the dignity of his person and accordingly (a) no person shall be subjected to torture or to inhuman or degrading treatment."

44. Nigeria is not a signatory to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, legislative and other measures have been put in place to ensure the enforcement of this constitutional principle. The Federal Republic of Nigeria is a party to the Geneva Conventions of 1949 which contains special provisions against torture and cruel treatment. With respect to the human dignity of persons in detention, the Nigerian Constitution has adequate provision against any form of torture.

45. Police officers are bound by law to refrain from acts of torture. An allegation of ill-treatment on the part of a police officer could render an officer liable to charges of assault before a court of law in addition to administrative charges.

46. A person in detention has the constitutional freedom to remain silent until after consultation with a legal practitioner or any person of his own choice. Any evidence obtained forcefully by torture is disregarded in court and treated as information obtained under duress.
(See R. v. John Agaragariga Itule (1961) and sect. 28 of the Evidence Act.)

47. Under section 251 of the Nigerian Penal Code, voluntarily causing hurt to extort confession or to compel restoration of property is a criminal offence. Section 31 of the Penal Code provides that the word "injury" denotes any harm illegally caused to anybody, in mind, reputation or property.

48. Under the Nigerian Criminal Code, torture is a crime with strict liability and punishment and where such torture leads to death, the accused will be charged with murder in accordance with the law of the land. Where any government official induces the torture he will be charged for the offence of accomplice and punished simultaneously.

49. In Nigerian prisons, there are three categories of offenders. These are young persons, people awaiting trial and those who have been sentenced to various terms of imprisonment. These classifications of offenders are separated in Nigerian prisons. Further, section 11 of the Prisons Act, Cap 366 of 1990 Laws of the Federation of Nigeria, provides specifically for the Chief Justice of Nigeria and other justices of the Supreme Court, the President and other justices of the Court of Appeal, the Chief Judge, the Grand Kadi, magistrates, district judges and justices of the peace to visit prisons at any time during which complaints by remanded persons and convicts may be made.

50. Section 15 of the Nigerian Prisons Regulation stipulates that "Male and Female prisoners shall be confined in separate parts of the prison" while section 16 stipulates that "The prisoners of each sex shall as far as the prison accommodation renders it practicable, be divided into distinct classes, namely: (a) prisoners before trial shall be kept apart from convicted prisoners: (b) juveniles under 16 years of age from adults; (c) debtors and other non-criminal prisoners from criminal prisoners". The Constitution guarantees them access to lawyers of their choice, doctors and family members. The detainees/prisoners are held in government prisons.

51. No person is subjected to medical or scientific experimentation. With regard to blood banks in Nigeria, donors always give their blood voluntarily.

52. Torture of pupils or students in medical or education institutions is prohibited.

53. A successful self-induced suicide is not punishable as the victim is no longer alive. However, an attempted suicide is a crime provided for in the Nigerian Penal Code. Such a person is charged with attempted murder. Where a person induces another to commit suicide, he will be charged by the State with murder and the dependants of the victim will claim damages from the accused.

54. Offences like battery, rape or other acts of violence causing physical pain but not impairment of health shall be punished according to the provisions of both the Criminal and Penal Codes.

Article 8 - Protection from slavery and servitude

55. In Nigeria, slavery, the slave trade, holding in servitude and forced or compulsory labour are absolutely prohibited by section 31 (b) and (c) of the 1979 Constitution of the Federal Republic of Nigeria as amended. Section 364

of the Criminal Code Act, Cap 77, Laws of the Federation of Nigeria 1990, provides for imprisonment for 10 years for any person involved in slave dealing while section 365 of the same Act provides punishment for deprivation of personal liberty.

56. However, there are exceptions recognized by the Federal Republic of Nigeria and enshrined in the Constitution. Section 31 (2) of the Nigerian Constitution provides that "for the purposes of subsection 1 (c) of this section", "forced or compulsory labour" does not include:

(a) Any labour required in consequence of the sentence or order of a court;

(b) Any labour required of members of the armed forces of the Federation or the Nigeria Police Force in pursuance of their duties as such or, in the case of persons who have conscientious objections to service in the armed forces of the Federation, any labour required instead of such service;

(c) Any labour required which is reasonably necessary in the event of any emergency or calamity threatening the life or well-being of the community; or

(d) Any labour or service that forms part of:

(i) Normal communal or other civil obligations for the well-being of the community;

(ii) Such compulsory national service in the armed forces of the Federation as may be prescribed by an Act of the National Assembly;

(iii) Such compulsory national service which forms part of the education and training of citizens of Nigeria as may be prescribed by an Act of the National Assembly. This includes the compulsory National Youth Service Corps in which every graduate in Nigeria serves for one year. This forms part of the education and training of the citizens of Nigeria. The Corps was established by Decree No. 24 of 1973.

57. Nigeria is a member of the International Labour Organization. There is an intention on the part of the Federal Government of Nigeria to meet the requirements arising out of constitutional provisions and to improve national legislation in the field of labour and social productivity.

58. There are statutory provisions and judicial powers to protect employees while in service. The Workmen's Compensation Act provides for remedies for any injury sustained by an employee while still in employment. Under the Act, most of the employees of the Federal Government are insured with the National Insurance Company of Nigeria (NICON). Pursuant to these provisions, under the Nigeria Airways Act any passenger in an aircraft is fully insured throughout the duration of the journey.

59. The Supreme Court of Nigeria has decided in the case of Oduye v. Nigeria Airway Ltd. (1987) that any employee dismissed contrary to service regulations applicable to such an employee is entitled to full compensation from the Government.

60. Contracts for employment are freely entered into in Nigeria on the basis of normal contractual principles and may be terminated in accordance with the terms of the contract. Any clause in a contract which could be construed as having elements of servitude or forced labour is contrary to policy and therefore unenforceable.

Article 9 - Protection of personal liberty

61. The Federal Republic of Nigeria has adopted the provisions of article 9 into the Constitution. Section 32 (1) provides that:

> "Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with the procedure permitted by law:
>
> "(a) in execution of the sentence or order in respect of a criminal offence of which he has been found guilty;
>
> "(b) by reason of his failure to comply with the order of a court or in order to secure the fulfilment of any obligation imposed upon him by law;
>
> "(c) for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence;
>
> "(d) in the case of a person who has not attained the age of 18 years, for the purpose of his education or welfare;
>
> "(e) in the case of persons suffering from infection or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community; or
>
> "(f) for the purpose of preventing the unlawful entry of any person into Nigeria or of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto."

Section 32 (2) provides that "Any person who is arrested or detained shall have the right to remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice".

62. The import of article 9 is to guarantee every person his personal liberty without deprivation and where the deprivation becomes absolutely necessary, it must be in accordance with the law and the dictates of the necessity of the moment. Exceptions to these are:

(a) Under the welfare package of the Constitution, a child under the age of 18 years may be forced against his will to attend school or place of learning;

(b) In the case of individuals with certain contagious diseases, the liberty of such persons to mix freely with other members of the society may be restricted;

(c) Equally, where there is a lawful order for the expulsion or extradition of any person from Nigeria, his liberty may also be restricted.

The same exception is applied to people of unsound mind who are categorized as threats to the peace and coexistence of the society.

63. Despite all these exceptional situations, there is one fundamental condition that the authorities must satisfy if their action is to be justified and acceptable. The condition is that the authorities must establish reasons for their actions and show how those reasons are in accordance with the law and public safety. Thus it was decided in the case of Obolo v. The Commission of Police (1989) where the court held that it is the duty of the person arresting or exercising public authority to restrict the liberty of the citizen and to show that his actions are in accordance with the law of the land.

64. As a result of this fundamental duty on the State with respect to public liberty, every person charged with a criminal offence is constitutionally deemed or presumed to be innocent until he is proved guilty. This is contained in section 33 (5) of the Nigerian Constitution. Where any person is arrested with respect to an alleged offence, it is his/her constitutional right to be informed promptly, and in a language he can understand, the nature of his offence and the reason for this arrest. Any denial of this right is a breach of the right of the applicant and it is actionable in the court of law in Nigeria by virtue of the provisions of section 42 (1) of the Constitution.

65. Any person arrested or detained has the right to remain silent until after consultation with a legal practitioner of his choice.

66. The Supreme Court decided that an interpreter should be provided for the person whose liberty has been threatened and any information passed to him by the interpreter is deemed to be information passed to him directly. This administrative direction from the Supreme Court to all the courts in Nigeria is in compliance with section 33 (6) (e) of the Constitution of the Federal Republic of Nigeria which provides that "an accused person shall have without payment the assistance of an interpreter if he cannot understand the language used at the time of the offence". The power of the Chief Justice of Nigeria to give such directive is provided for in section 42 (3) of the Constitution

of the Federal Republic of Nigeria - "The Chief Justice of Nigeria may make rules with respect to the practice and procedure of a High Court for the purposes of this section".

67. Where any person alleges that his or her personal liberty is threatened, he has the constitutional freedom to seek redress in the High Court within the jurisdiction where he is located. This is provided for in section 42 (1) of the Constitution of the Federal Republic of Nigeria: "Any person who alleges that any of the provisions of this Chapter has been, is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress". The right of access to court is one of the fundamental objectives and principles of State policy in Nigeria. This is provided for in section 17 (2) (e) of the Nigerian Constitution.

68. Bail is granted to a person arrested for a bailable offence. The conditions for bail, if any, should not be made such that the person seeking bail is unable to meet them.

Article 10 - Protection from inhuman treatment

69. Nigeria accepts the principles and objectives set out in article 10. Section 31 (1) of the Constitution of the Federal Republic of Nigeria provides safeguards against inhuman treatment: "every individual is entitled to respect for the dignity of his person".

70. The Prisons Act, Cap 366 Laws of the Federation of Nigeria 1990, and the Prisons Regulations Act adopt the import of article 10. Persons deprived of their liberty are accorded human treaty. Prisons are designed to serve as reformation homes to equip the prisoners with the skills and knowledge necessary to live a decent life after their terms of imprisonment. To ensure the realization of this goal, the Federal Government of Nigeria feeds prisoners and clothes them, independent of their relatives. Most of the prisoners come out as skilled carpenters, shoemakers or artisans of different kinds. This notwithstanding, the difficulties brought about by the economic situation in the country have resulted in the prison services being underfunded.

71. Convicted prisoners are usually separated from those awaiting trial. Equally, accused juveniles are not kept in the same prisons with adults and they are usually tried in juvenile courts. If the charge against them is proven, they are sent to Borstal or reformation centres or placed under the care of social welfare officers. This is provided for in the Children and Young Persons Act of the Federal Republic of Nigeria.

72. Persons in detention are provided with the requisite accommodation and amenities in accordance with the health and hygiene regulations. Every prison in Nigeria has a resident doctor (see section 12 (1) and (2)). The doctor must be an employee of the Federal Government. Persons in detention or serving sentence are provided the opportunity of meeting their relatives at a specified period and in accordance with the prison regulations. The prison system in Nigeria does not forbid a prisoner from having access to his counsel.

73. Under section 15 of the Prisons Regulation Act, Cap 366, Laws of the Federation of Nigeria (1990), male and female detainees as well as those serving sentences are separated. However, due to the present economic hardship accused persons and convicted persons share the same prison facilities in some areas.

Article 11 - Protection from imprisonment on failure to fulfil contractual obligation

74. Section 32 of the Constitution of the Federal Republic of Nigeria protects the individual's personal liberty. A person can be sent to prison only for a criminal offence and in accordance with the provision stipulated by law. A person cannot be sent to prison for failure to comply with a contractual obligation. Thus, under the laws of the Federal Republic of Nigeria there are no provisions for imprisonment merely on the ground of a person's inability to fulfil a contractual obligation provided that such inability was not aimed at perpetrating fraud or forgery which might constitute an offence punishable under the Criminal and Penal Code of Nigeria.

75. Under Nigerian Law, Decree No. 20 of 1984 (Miscellaneous Offences Decree) makes fraud and forgery offences punishable in Nigeria. Sections 419, 427 and 434 of the Criminal Code Act make fraud an offence punishable with stiff penalties while sections 465 and 467 make forgery a criminal offence punishable by law. Money Laundering Decree No. 3 of 1995 makes it an offence to display in the society funds and assets when their sources are considered dubious.

76. Oil being the backbone of Nigeria's economy, the prices are closely monitored to ensure that the pump price is as approved by the Federal Government. To realize this objective, the Weight and Measure Department has been established in the Nigerian National Petroleum Corporation.

77. Contractual obligations are governed by the civil laws of Nigeria and courts are enjoined to enforce the contractual obligations agreed to by the parties. This was the unanimous decision of the Court of Appeal of Nigeria in the case of Obafemi Awolowo University v. Dr. A.K. Onabanjo (1991). Thus, the Court of Appeal decided that where there is a contractual obligation guiding an agreement between the parties, the main duty of the court is to interpret the contractual document and give effect to the wishes of the parties as expressed in the document.

Article 12 - Protection of freedom of movement

78. Section 38 (1) of the Nigerian Constitution 1979 as amended guarantees freedom of movement of the individual. Freedom of movement is thus given constitutional recognition and the right to choose one's residence is treated as part of the fundamental rights of the Nigerian citizen. Equally, freedom to enter or right of entry and exit of a Nigerian into and out of the country is a constitutional right. Section 38 (1) of the Nigerian Constitution provides that "Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereto or exit therefrom".

79. As a result of the Economic Community of West African States (ECOWAS) protocol of 90 days, every citizen of an ECOWAS State has the freedom to enter Nigeria and to live in Nigeria for 90 days without a visa.

80. These right are not absolute. There are some exceptions put in place to protect National Security, Public Order, Public Health, Public Morality and the protection of the rights of others. A Nigerian citizen holding a Nigerian passport may be restrained from moving out of the country if any of the exceptional situations envisaged by section 38 (2) of the Nigerian Constitution stand out against him. These exceptional situations are not restricted to the municipal laws of Nigeria but are recognized by article 12 of the Covenant.

81. Section 39 (2) provides thus:

> "Nothing in subsection (1) of this section shall invalidate any law that is reasonably justifiable in a democratic society.
>
> "(a) Imposing restrictions on the residence or movement of any person who has committed or is reasonably suspected to have committed a criminal offence in order to prevent him from leaving Nigeria, or
>
> "(b) Providing for the removal of any person from Nigeria to any other country:
>
> "(i) to be tried outside Nigeria for any criminal offence, or
>
> "(ii) to undergo imprisonment outside Nigeria in execution of the sentence or a court of law in respect of a criminal offence of which he has been found guilty, provided that there is a reciprocal agreement between Nigeria and such other country in relation to such matter."

82. Ownership of a passport in Nigeria by every citizen is a constitutional right. A person who is able to establish his/her Nigerian citizenship and identity is entitled to a Nigerian passport. Ownership of a passport is constitutionally provided for in section 38 and this was clearly upheld in the case of Olisa Agbakoba v. State Security Service.

83. The issuance of passports is regulated by the provisions of the Immigration Act in Nigeria. The period for issuance is dependent on the exigencies of each case, e.g. in the case of ill-health, the passport can be issued within 24 hours. In the case of a foreign interview slated for a Nigerian citizen, it can be obtained within three days. This duration is to afford the passport officials time to confirm the genuineness of his papers and authenticity of his intention.

84. Entry into Nigeria by non-citizens is governed by the immigration laws. Nigeria permits temporary refugee asylum and political refugees from other countries. Nigeria supports and fully cooperates with the Lagos office of the United Nations High Commissioner for Refugees (UNHCR). The country at present

hosts an estimated 1,500 refugees each from Liberia and Chad. Treatment and repatriation of refugees is normally conducted in accordance with UNHCR standards.

Article 13 - Deportation of aliens

85. The position of non-Nigerian citizens resident or temporarily present in Nigeria is widely provided for in the Immigration Act of Nigeria as well as the Constitution of the Federal Republic of Nigeria. The Nigerian Government may order the expulsion from Nigeria of a non-citizen. Conditions for deportation comply with the provisions of article 13.

86. Three categories of aliens are recognized - aliens lawfully in the country, aliens unlawfully in the country and aliens who are political prisoners in the country.

87. The Immigration Act, Cap. 171, Laws of the Federation of Nigeria, section 18, provides as follows: "Any person with any of the following classes shall be deemed to be prohibited immigrants and liable to be refused admission into Nigeria or to be deported as the case may be, that is to say: (a) any person who is without visible means of support or is likely to become a public charge or any person whose admission in the country would be in the opinion of the Minister contrary to the interest of national security".

88. Aliens unlawfully in the country are always deported on detection because their presence in the country constitutes an illegality. Some such aliens have heinous intentions that are inimical to State security. The fact that such aliens deliberately decided to sneak into the country without following the procedure raises a security question that necessitates deportation. However, aliens that are lawfully in the country are not ordinarily expelled except in the following cases:

(a) Where their entry into the country is lawful but on entry they commit criminal offences or engage in acts that are prejudicial to State security;

(b) Where their entry is lawful but they connive with saboteurs to overthrow the Government;

(c) Where the alien lawfully enters the country but the country of his nationality applies to Nigeria for extradition for the purpose of facing trial in respect of a criminal offence committed in that country. The procedure for such extradition is provided for in the Extradition Act of Nigeria, Cap. 125, Laws of the Federation of Nigeria 1990, and Nigeria would only concede to the extradition of such a lawful alien if there is a reciprocal agreement between Nigeria and the country involved. However, in carrying out the extradition or deportation of a lawful alien, he must be accorded the full right of fair hearing as enshrined in section 33 (1) of the Constitution of the Federal Republic of Nigeria.

Article 14 - Equality before the law

89. The provisions of article 14 have been given constitutional recognition in various sections of the Nigerian Constitution 1979, particularly sections 32 and 33 of the Constitution which deal in detail with the provisions of article 14. Section 33 (1) provides for the right to equality before the law in the determination of the civil rights and obligations of the parties. This section states as follows: "In the determination of a civil right and obligation including any question or determination by or against any Government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and Constitution in such a manner as to secure its independence and impartiality".

90. The Nigerian Constitution provides strict separation of the powers between the judiciary, the legislature and the executive arms of government. Judicial powers are vested solidly in the judiciary.

91. The appointment of judges to the competent courts in Nigeria is done by the Judicial Service Commission. It is provided for in section 211 (1) of the Nigerian Constitution as follows: "the appointment of a person to the Office of Chief Justice of Nigeria shall be made by the President in his discretion subject to confirmation of such appointment by a simple majority of the Senate". Other justices of the Supreme Court are appointed by the President of the Federal Republic of Nigeria on the advice of the Federal Judicial Service Commission and such appointments are not effective until scrutinized and approved by a simple majority of the Senate. This procedure is contained in section 211 (2) of the Nigerian Constitution. Equally, the appointment of judges to the Federal Court of Appeal is subject to the scrutiny and approval of the simple majority of the Senate. This procedure is contained in section 218 of the Nigerian Constitution.

92. To further stress the independence and impartiality of the judges, the salaries of judges in Nigeria are not drawn from the recurrent expenditure but rather charged on the consolidated fund. The consolidated fund is defined as the fund into which all the revenues or other monies raised or received on behalf of the Federal Government of Nigeria are paid. This procedure is contained in section 74 of the Nigerian Constitution. The fact that the salaries of all judges in Nigeria are charged on the consolidated fund is provided for in section 78 of the Nigerian Constitution. It is worthy of note that the President of Nigeria and his Vice-President also have their salaries from the consolidated fund. Therefore, putting the judges on the same pedestal with the President of Nigeria with respect to the sources of their salary is to remove any attempt to make the judges subservient to the executive with respect to their means of livelihood.

93. With respect to the retirement of judges, there are adequate provisions in the Constitution to guarantee their voluntary or wilful retirement uninfluenced by the executive. Thus, it is provided in section 255 of the Constitution as amended that a judge is free to retire voluntarily when he reaches the age of 60 or the authority may retire him by the age of 65 years. Section 256 of the Nigerian Constitution provides conditions to guarantee their continuity in office until they voluntarily retire or until they reach

the statutory retirement age. The same section provides for exceptional circumstances when a judge may be retired before he reaches the retirement age.

94. All these constitutional provisions are put in place to guarantee their independence and impartiality. And from these constitutional provisions, two fundamental facts stand out distinctly with respect to the removal or retirement of a judge in Nigeria:

(a) No judge in Nigeria shall be retired or removed from his office before his age of retirement;

(b) A judge can only be removed before the age of retirement if any of the exceptional situations provided for in section 256 (1) of the 1979 Constitution as amended is present. That section provides as follows:

> "A judicial officer shall not be removed from his office or appointment before the age of retirement except in the following circumstances:
>
> (a) In the case of the Chief Justice of Nigeria, by the President acting on an address supported by two-thirds majority of the Senate.
>
> (b) In the case of the Chief Judge of a High Court of a State or Grand Kadi of a Sharia Court of Appeal or President of the Customary Court of Appeal of the State by the Governor acting on an address supported by two-thirds majority of the House of Assembly of a State praying that he be so removed for his inability to discharge the functions of his office or appointment ... ."

95. The inability that may necessitate such a removal must arise from any of the four sources provided for in the Constitution. These sources are (a) infirmity of the mind; (b) infirmity of the body; (c) serious misconduct that is unbecoming of that office; (d) contravention of the Code of Conduct which they all swear to uphold. These four conditions are spelt out in section 256 (1) (b).

96. The provision of article 14 (1) of the Covenant which deals with the trial of offenders is fully recognized in Nigeria. Section 33 (3) of the Nigerian Constitution provides that trials by any court or proceedings of any tribunal shall be held in public. This has been observed throughout the Federal Republic of Nigeria. Also, section 33 (4) provides that where a person is charged with a criminal offence, unless the charge is withdrawn he is entitled to a fair hearing within a reasonable time by a court or a tribunal. Article 14 of the Covenant recognizes the establishment of tribunals in States parties. All that is required of a tribunal is that it must be established by law and its rules of procedure must not be at variance with the provisions of the Covenant, nor must it be at variance with what is obtainable in a democratic society. All tribunals established in Nigeria are established by law and their rules of procedure are spelt out in accordance with democratic norms, e.g. the Treason and Other Offences Tribunal was

established by the Treason and Other Offences Decree No. 1 of 1986. The Decree provided for the rules of procedure, the right of the parties before the Tribunal, the right of appeal and the independence of the Tribunal.

97. Generally, court proceedings in Nigeria are all public proceedings except where the matter concerns defence, public safety, public order, public morality, the welfare of a person who has not attained the age of 18 years, the protection of the private lives of the parties, or where the proceedings relate to complicated matrimonial matters. These exceptional situations, as recognized in article 14 (1), are upheld in section 33 (13) (a) of the Nigerian Constitution. Except for these exceptional situations, the press is not excluded from Nigerian courts.

98. Article 14 (2) of the Covenant is a complete replica of section 33 (5) of the Nigerian Constitution. This subsection of the Constitution provides that "Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty". These provisions have been given empirical interpretations by the courts. Thus, in the case of Seidu v. State (1982) the Supreme Court of Nigeria ruled "it does not give the law any joy to see the offenders escaping the penalty they richly deserve, but until they are proved guilty in accordance with the law of the land, they are entitled to move freely on Nigerian soil and breathe Nigerian air freely, unhindered ... ."

99. Article 14 (3) has been given elaborate recognition in the Nigerian Constitution and this is provided for in section 33 (6) (a) to (e). This subsection provides that "Every person who is charged with a criminal offence shall be entitled (a) to be informed promptly in the language that he understands and in detail of the nature of the offence; (b) to be given adequate time and facilities for the preparation of his defence; (c) to defend himself in person or by a legal practitioner of his choice; (d) to examine in person or by his legal practitioner the witnesses called by the prosecution before any court and to obtain the attendance and to carry out the examination of witnesses, to testify on his behalf before the court on the same conditions as those applying to the witnesses called by the prosecution; and (e) to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the offence".

100. To be informed in the language one understands means to be given the details of the offence he has committed and why he is being held. It also means being given the full interpretation of the proceedings and not the summary. This provision is so paramount in the Nigerian Constitution that where a competent interpreter is not available, the proceedings must be adjourned and the accused granted bail. The importance of this provision is of historical significance. Thus, section 21 (b)-(e) of the Nigerian Constitution 1960 contained similar provisions and in 1964 when the Federal Supreme Court of Nigeria was called upon to interpret that provision in the case of Buraima Ajayi and Anor. v. Zaria Native Authority (1964), the Court held that it is a fundamental principle of the administration of justice that every person who is charged with a criminal offence shall be entitled to have without payment the assistance of an interpreter.

101. Article 14 (3) also deals with giving an accused person adequate time and facility for the preparation of his defence. This has been recognized in the Nigerian Constitution in section 33 (6) (b). It is worthy of note that much has been done by the Federal Government of Nigeria in this regard. The Federal Government of Nigeria has established the Legal Aid Council to provide free legal services to accused persons who could not afford the fees of private legal practitioners. Voluntary organizations in Nigeria are contributing immensely to the realization of this objective. Thus, the International Federation of Women Lawyers (FIDA), Nigerian Chapter, has established a legal unit to provide free legal services to women who may not have access to legal aid of the Government or who feel that the nature of their matrimonial case deserves private briefing through a lawyer of the same sex.

102. The provisions of article 14 (3) (a) were given prominence in section 33 (11) of the Nigerian Constitution. The said subsection provides that "no person who is tried for a criminal offence shall be compelled to give evidence at the trial". Historically, the same provision was contained in section 22 (a) of the Nigerian Constitution 1960 and in interpreting that provision in the case of R. v. John Agaragariga Itule (1961), the Acting Chief Justice of the Federation ruled that confession of crime obtained against the will of the accused is evidence obtained under duress and is inadmissible because it breaches the accused's fundamental right to remain silent.

103. Article 14 (4) deals with criminal proceedings with respect to juveniles. In Nigeria, there are three stages of maturity recognized by law. These are the age of minor, juvenile and the age of maturity.

104. Under the criminal law in Nigeria, a child is said to be a minor if he or she is below the age of 7 years or not yet above the age of 12 years. At such a stage the law believes that the child has no capacity for means rea or intent or acteus rea capacity to act, of the crime he or she is charged with, and none such children are sentenced for any criminal offence in Nigeria.

105. A child who is above the age of 12 years and not yet attained the age of 18 years is either referred to as a juvenile or a young person. Under the Children and Young Persons Act of Nigeria, referred to now as the Borstal Institutions and Rehabilitation Act, children of this age involved in crime are not tried or punished as an adult. Their trial, where it is deemed necessary for the purposes of ascertaining their guilt, is carried out in camera by the court or tribunal concerned. Such in camera proceedings, which are meant to protect the welfare of such persons, are recognized in section 33 (13) (a) of the Nigerian Constitution. Where such a young person or juvenile is convicted of the crime alleged, he/she is not sent to public prisons for incarceration, rather he is kept in the Borstal Institutions for his rehabilitation. This is the purpose for the promulgation of the Borstal Institutions Act, now part of the Laws of the Federation of Nigeria 1990.

106. However, under the Nigerian Constitution, a person of the age of 18 years is regarded as having attained majority and is responsible for his or her actions under the laws of Nigeria except where public order and public morality dictates otherwise. This 18 years of age is contained in section 33 (13) (a) of the Nigerian Constitution.

107. Article 14 (5) deals with the right of an accused person to appeal. The law which states that the decision of the trial court or tribunal should not be conclusive and final is contained in section 33 (2) (b) of the Nigerian Constitution. Therefore, it is part of the fundamental right of fair hearing that a convicted person be allowed to test the validity of his conviction and sentence at the appellate court up to the highest court in the land. In order to realize this, the Nigerian Constitution provides adequately for instances when an accused person can appeal as of right and when he can do so with the leave of the court.

108. Section 220 (1) of the Nigerian Constitution 1979 as amended provides instances when a convicted person can appeal as of right from the decision of the High Court to the Court of Appeal. And section 221 deals with instances when an appeal can competently lie with the leave of court. Appeal is said to lie as of right in accordance with section 220 of the Nigerian Constitution if (a) the appeal is against the final decision of the High Court in every civil or criminal matter; (b) where the grounds of appeal involve questions of law alone, be it civil or criminal proceedings; (c) where the grounds of appeal deal with a question as to the interpretation or application of the Nigerian Constitution; (d) where the grounds of appeal deal with a breach of any of the fundamental rights recognized in chapter IV of the Nigerian Constitution; (e) where the grounds of appeal deal with a sentence of death passed by the High Court; (f) where the grounds of appeal deal with questions relating to the valid election of any person to any of the offices recognized by the Constitution; and (g) where the grounds of appeal deal with the liberty of a person or the custody of an infant.

109. In any other instance outside the above list, the leave of court is required. Furthermore, tribunals established by law in Nigeria have their decisions subject to appeal and this is provided for in section 225 of the Nigerian Constitution; this brings Nigerian tribunals into conformity with democratic norms.

110. Under the Nigerian Constitution, appeal as of right from the decision of the High Court to the Court of Appeal lies within 30 days of such a decision. Also, appeal against an interim order of the court and appeal against an order where the leave of court is required carries 14 days to lie from the decision of the High Court to the Court of Appeal. However, appeal from the decision of the Court of Appeal to the Supreme Court can lie within three months. Failure to file the appeal within the stipulated constitutional period does not necessarily preclude the appellant from justice. There are provisions in the laws for applications to be made by the affected appellant to the court where the appeal ought to lie for an extension of time within which to appeal and where the grounds for such application are cogent and not frivolous, such applications are always granted.

111. Article 14 (6) of the International Covenant on Civil and Political Rights has been given prominent recognition under the Nigerian Constitution by virtue of the provisions of section 40 of the Nigerian Constitution. These two sections deal with situations where a citizen is wrongly dealt with by the Government and the right of such a person to compensation. In fact, the Nigerian Constitution did not stop with compensation and added "public apology". Where the wrong relates to the property of the affected citizen and

compensation becomes inevitable, the Nigerian Constitution makes such compensation compulsory and timely. Failure to pay such compensation promptly amounts to infringement of the right of the person concerned and such an infringement is actionable under section 42 of the Nigerian Constitution.

112. Article 14 (7) of the Covenant has been given a central provision under Nigerian Penal Law and the recognition has been constitutionally entrenched in section 33 (9) of the Nigerian Constitution. The said subsection provides that "no person who shows that he has been tried by any court of competent jurisdiction for a criminal offence and either convicted or acquitted shall again be tried for the offence or for a criminal offence having the same ingredients as that offence, save upon the order of a superior court". Thus, Nigerian Law and the Constitution recognize the rule against double jeopardy which is the foundation of the pleas of autrefois acquit and autrefois convict.

113. It is pertinent to point out here that there is no record of the violation of this constitutional provision in Nigeria. It is also worthy of note that the Federal Republic of Nigeria has made this provision part of the fundamental rights of citizens and any person who feels that these provisions are being or are likely to be contravened with respect to him has the right to take the appropriate agent of the Government to court for redress under section 42 of the Nigerian Constitution. Furthermore, to ensure the full realization of this provision, special rules of procedure to ensure quick dispensation of justice and the protection of the rights of citizens with respect to these provisions were made by the Chief Justice of the Federation of Nigeria in 1989 and these rules of procedure are called Fundamental Human Rights Enforcement Procedure Rules 1979. These rules have constitutional backing by virtue of section 42 (3) of the Nigerian Constitution.

Article 15 - Non-retroactive laws

114. In Nigeria, the criminality and punishability of an act shall be defined by the law in force at the time of the commission of the offence. Any person who has committed an act having the characteristics of an offence may be released from prosecution if it is found by the court that as a result of a change in circumstances, the act committed by that person had ceased to be deemed socially dangerous or that the person had ceased to be socially dangerous.

115. Article 15 of the Covenant prohibits the retroactive application of criminal laws and covers both the criminalization of certain acts and the severity of the punishment that may be imposed for criminal offences. The provisions of article 15 have been given constitutional recognition and protection, and this has been provided for in section 33 (8), (10), (11) and (12).

116. Section 33 (8) of the Constitution of Nigeria provides that "No person shall be held to be guilty of a criminal offence on account of any act or omission that did not at the time it took place constitute such an offence and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed". In order fully to realize the provisions of article 15, this right has been regarded as one of the

fundamental rights of every citizen of Nigeria. Trials in Nigeria in respect of criminal offences are handled by either the regular courts or tribunals set up for that purpose and both the regular courts and tribunals accord the accused the purport of the principle of fair hearing.

117. The introduction of tribunals to the criminal system in Nigeria is not an aberration. Article 14 of this Covenant recognizes the use of tribunals. The use of retroactive laws is not a regular feature in Nigeria except where State security or the emergence of imminent danger to the continuity of Nigeria dictates otherwise.

118. Prior to the year 1985, there was no law in Nigeria that made planning a coup d'état an offence. What Nigeria had was an attempted coup. The Treasonable and Other Offences Decree No. 1 of 1986, which made planning a coup against the Federal Republic of Nigeria an offence, was promulgated in 1986.

Article 16 - Recognition before the law

119. The Constitution of the Federal Republic of Nigeria recognizes the right of every person before the law. These rights are accorded to a child before his birth. Thus, sections 232 to 236 of the Penal Code of Nigeria, Cap 89, Laws of Northern Nigeria 1963, forbids any injury that may be inflicted on a pregnant woman that may have effect on the child in the womb and deal with other rights of a child yet unborn.

120. A citizen's legal capacity shall arise at the time of his birth and shall be terminated by his death. A citizen's capacity to acquire civil rights and create civil obligations for himself by his own action shall arise in full on the attainment of majority (the legal age to act in Nigeria is 18 years). In Nigeria, there is no restriction on legal capacity of a person except in circumstances prescribed by law. A citizen may be found incapable by the court in cases of mental illness or feeble-mindedness as a result of which he is placed under guardianship. A person who has not attained the age of 18 years may act through a guardian to express his legal capacity.

121. The civil capacity of an alien to act is prescribed in the Constitution of the Federal Republic of Nigeria as well as the Immigration Act.

122. Thus, Nigerian laws and the Constitution recognize the legal status of individuals and their capacity to exercise rights and enter into contractual obligations. But this legal capacity to act may be restricted for such reasons as minority or incapacity to act.

Article 17 - Protection of the right to privacy and property

123. The purport of article 17 is enshrined in section 34 of the Constitution of the Federal Republic of Nigeria as amended. Section 34 of the Nigerian Constitution provides that "the privacy of citizens, their names, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected". This section guarantees the private lives of citizens including the confidentiality of their homes, correspondence and

telephone conversations. No interference can take place except in cases envisaged by the law which itself must comply with the provisions, aims and objectives of the Covenant.

124. An interference is said to be unlawful if it is contrary to the laws of the land and where such occurs, the affected individual has access to court for redress. This is provided for in section 41 (1) of the Constitution.

125. Citizens of Nigeria are guaranteed inviolability of their dwelling. No one shall have the right without a lawful reason to enter a dwelling against the will of the persons living in it.

126. The Land Use Act provides that compulsory acquisition of property by the Government must be for overriding public interest and where the Government compulsorily acquires an individual's property, the Government must compensate the person adequately.

127. Respect for the person and protection of the rights and freedoms of citizens shall be the duty of all State organs, public organizations and officials.

128. Violation of the secrecy of citizens' correspondence, telephone conversations and telegraphic communications can only be at the instance of the Government for the interest and security of the Government.

129. In cases where a crime has been committed by an individual and reported to the police, the police may carry out investigations to ascertain the veracity or authenticity of the report. The police may obtain a service warrant from court to obtain necessary evidence from a person's house. The Criminal Procedure Act made express provisions for this.

130. The intentional dissemination of fabrications defamatory of another is covered by section 375 of the Criminal Code of Nigeria: "Subject to the provisions of this Chapter, any person who publishes any defamatory matter is guilty of a misdemeanour and is liable to imprisonment for one year and any person who publishes any defamatory matter knowing it to be false is liable for imprisonment for two years".

131. Section 378 of the Criminal Code provides for cases in which publication is absolutely privileged. The exceptions are as follows:

(a) If the matter is published by the President or a Governor or by order of the President or a Governor in any official document, Gazette or proceeding;

(b) If the publication is made in a petition to the President, Governor or Secretary of a State;

(c) If the publication takes place in any proceeding held before or under the authority of any court or an inquiry held under the authority of any ordinary law;

(d) If the publication takes place in an official report made by a person appointed to hold an inquiry under the authority of any ordinance;

(e) If the matter is published concerning a person subject to military discipline for the time being and relates to his conduct as a person subject to such discipline.

132. Section 379 of the Criminal Code provides for a case in which publication is conditionally privileged.

133. The laws of the Federal Republic of Nigeria provide for compensation for moral damage caused to a natural or legal person by the dissemination through a mass media of defamating communications and material inconsistent with reality and injurious to honour and dignity. An individual may also claim from the court the refutation of information derogatory to his honour and dignity if the person who has disseminated that information fails to prove that it corresponds to reality.

134. The protection of civil rights shall be obtained in accordance with the established procedure by the court or tribunal. The judicature is prescribed in Chapter Seven of the Constitution of the Federal Republic of Nigeria as amended.

135. The dignity of an individual is not to be subjected to torture or inhuman treatment.

136. In conclusion, one can say that the protection of the right to privacy and property is not absolute.

Article 18 - Protection of freedom of thought, conscience and religion

137. Section 35 of the Constitution of the Federal Republic of Nigeria enumerated extensively the provisions of article 18:

> "(1) Every person shall be entitled to freedom of thought, conscience and religion, including (either alone or in community with others and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.
>
> (2) No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if such instruction, ceremony or observance relates to a religion other than his own or a religion not approved by his parent or guardian.
>
> (3) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination."

138. Section 35 (1) of the Nigerian Constitution deals with both the absolute and the relative side of the question. The absolute side involves freedom of thought, conscience and religion, including the freedom to change one's

religion or belief. These rights are absolute for every citizen of Nigeria and no Government or parent, either directly or by statute, has ever attempted to control the absolute right of conscience and religion. Its supremacy has been given constitutional recognition in section 35 (1) and any infringement of this supreme right is actionable in a court of law by virtue of section 42 (1) of the Constitution. The second side of section 35 (1) with respect to religion deals with the propagation, teaching, practice and observance of a religion. This aspect deals with the outward manifestation of the religion which if taken to be absolute, would affect the right of others. It is therefore an offence to force or coerce citizens of a different faith. Where that is tried, the State, in the interest of peace, will intervene. In that regard, forceful religious preaching in the streets is forbidden.

139. Also with respect to teaching and practice, differences exist within each of the religions in the country and the State does not interfere, despite the glaring differences, provided the practice of these religions does not affect the peace and order of the State. However, where the practice and observance or religious beliefs tend to threaten the existence of the State, ad hoc laws are passed to control excesses. Thus, in Nigeria in 1991, there were extreme cases (excesses) of fanaticism in the practice and observance of Islam in Katsina and Bauchi states. This caused a lot of civil disturbances which brought the State to the scene and led to the promulgation of a degree called the Civil Disturbances Decree of 1991 under which tortfeasors in such disturbances were tried by the tribunal set up under the Decree.

140. It is pertinent to point out at this juncture that the above instance does not mean or should not be taken to mean that the State interferes in religious matters. It is only when the exigencies of the situation demand it that the State interferes. However, it is constitutionally provided in section 10 of the Nigerian Constitution that the State shall not adopt any religion as the State religion. No restrictions are imposed on the exercise of this freedom and there is no coercion to change or renounce any views.

141. In Nigeria, there are three categories of educational institutions: the federal schools, State schools and private schools. There are two types of private schools, secular private schools and the religious institutions. In all the federal schools, from primary to university, no religious instruction is imposed on the pupils and every religion is recognized. In Nigeria secular society is given its pride of place in the extracurricular activity of such schools with specific religious instructions for that purpose. The same situation applies in State schools.

142. Freedom of religion is provided in section 35 (1) includes freedom to propagate such religion in a designated religious school. In compliance with that section of the Constitution, the Federal Government of Nigeria allowed various religions to establish such schools for the purpose of training their clergy, nuns, priests, ministers of religion, etc. This has led to the establishment of missionary schools and Islamic institutions.

143. From the above analysis, it follows therefore that there is no form of religious discrimination in Nigeria.

144. The Government of Nigeria has sponsored yearly pilgrimages for Muslims to visit Mecca and for Christians to visit Jerusalem. Divine services and religious observances and practices are carried on in cathedrals, mosques and religious houses according to the different faiths. Public prayers and religious rites are practised in hospitals, prisons and homes for the elderly and disabled.

Article 19 - Protection of freedom of expression

145. In Nigeria, everyone has the right to hold opinions without interference. Everyone also has the right to freedom of expression and to seek, receive and impart information and ideas as they wish. The Constitution of the Federal Republic of Nigeria guarantees these rights as an absolute right by virtue of section 36 of the Constitution: "Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas, information without interference."

146. In Nigeria, there is freedom to own, establish and operate any medium for dissemination of information, ideas and opinion. This is guaranteed in section 32 (2).

147. The freedoms provided for in section 36 of the Constitution have both absolute conditions and moderate aspects. The freedom to hold an opinion is absolute under any religion in Nigeria and there has not been any record of an attempt to control this freedom. The other aspect of this freedom is the freedom to own and to establish. Even though this is provided for in the Constitution, in order not to undermine State security or not to violate the rights of other citizens, any application for such an establishment is scrutinized to ascertain its authenticity and if the State is satisfied of the clear intention of such media houses the President or his accredited representative as may be designated from time to time will give the approval without restriction.

148. This procedure is provided for in section 36 (2) of the Constitution of the Federal Republic of Nigeria as amended. As a result of this section many newspaper houses have been registered and established in Nigeria. As at December 1994, there were over 50 newspaper houses in Nigeria and by September 1994, many private television stations had been licensed and some of them have taken off.

149. The establishment of federal and State Ministries of Information has facilitated the freedom to disseminate information in Nigeria.

150. In Nigeria, every citizen has the freedom of expression. This is provided for in section 36 (1) of the Constitution of the Federal Republic of Nigeria as amended. This freedom includes the right to receive and to impart ideas and information without interference. It also extends to the right to advise the Government or criticize the Government constructively through the media. Examples of private media houses are Vanguard, Guardian, Punch, Champion, A.M. News, Concord, This Day, etc. It provides an avenue to ventilate union grievances against the State and gives the State advance

notice of a pending strike which always leads to a dialogue and amicable settlement. The Nigerian Government believes that to silence public opinion is to send rebellion underground, which can lead to catastrophe.

151. Despite the emphatic recognition given to this freedom in Nigeria, its realization is not absolute, as absolute freedom is no freedom at all. There are constitutional limitations to freedom to receive and impart ideas and information in Nigeria. These constitutional limitations are provided for in section 36 (3) of the Nigerian Constitution which includes the following:

> "(a) It is unlawful to use mass media for the purpose of disclosing official information marked confidential.
>
> "(b) To pre-empt the decision of a competent and independent court of law.
>
> "(c) To operate an illegal wireless broadcasting house or television without license."

152. It is also an offence to use any of the licensed media houses to undermine State security. What hinders full enjoyment of the available media is the deteriorating economic situation in the country especially among the people in the rural areas who have no access to newspapers as these have become very costly and the majority of these people cannot afford radios and television. Illiteracy is another hinderance which prevents the full realization and enjoyment of these rights.

153. Where any of these illegalities is detected or noticed, the State always intervenes in the overall interest of justice. Thus, in 1993, when the Federal Military Government felt that some licensed media houses were inciting the public against the Government, decrees were passed proscribing those houses. The Guardian Newspapers (Proscription and Prohibition from Circulation) Decree No. 8 of 1994 proscribed the Guardian newspaper from circulation while the Punch Newspapers (Proscription and Prohibition from Circulation) Decree No. 7 of 1994 proscribed Punch and the Concorde newspapers respectively. These proscriptions were to remain in place as long as they were deemed necessary and when the necessities were over, they were all revoked. The newspapers are back in circulation throughout Nigeria.

154. This measure is to prevent situations where media houses are used to undermine State security. However, where private individuals clandestinely undermine State security, the State Security (Detention of Persons) Decree No. 2 of 1994 as amended is always used to retain the status quo.

Article 20 - Prohibition of propaganda for war, national, racial or religious hatred

155. To ensure the realization of the provisions of article 20, the Federal Government of Nigeria promulgated the Federal Military Government Supremacy and Enforcement of Power Decree No. 12 of 1994 which empowered the Federal Government to muster all efforts at the disposal of the nation to ward off any propaganda of war and to promote peace throughout the Federation. This power to ensure absolute peace and to prohibit any propaganda for war was provided

in section 6 (5) of the Constitution, Suspension and Modification Decree No. 107 of 1993. This section deals with the executive authority of the Federal Republic of Nigeria with respect to responsibility to maintain absolute peace, law and order devoid of the propaganda for war. Decree No. 107 of 1993 in Nigeria is the ground norm of the Nigerian legal system.

156. With respect to foreign media, there is no law restricting their circulation in Nigeria. There were many of them in circulation throughout the Federal Republic of Nigeria. However, the deregulation policy of the Federal Government introduced in March 1993 has increased the exchange rate of the value of foreign currency against domestic currency and made importation of foreign newspapers exorbitant. Despite this, we have some foreign papers in circulation in Nigeria, such as Time, Newsweek, The Economist, etc.

157. It is unlawful to use mass media for the purpose of divulging a State secret or other secrets specially protected by law; violent overthrow or change of the existing constitutional system and the integrity of the State; propaganda for war; violence or cruelty; national, racial, social or religious exclusiveness, hostility or intolerance; the dissemination of pornography or the commission of criminal acts. The use of the mass information media for the purpose of attacks on the personal life of citizens or on their honour and dignity is prohibited and subject by law to prosecution.

158. In direct compliance with the provisions of article 20, the Federal Military Government of Nigeria has passed several decrees under which various tribunals have been set up on an ad hoc basis to deal with any incident of hostility or violence in any part of the country. Examples of such decrees include the following:

(a) Treasonable and Other Offence Decree No. 1 of 1986 under which a coup tribunal has been set up for trial of coup plotters;

(b) Civil Disturbances Decree under which tribunals have been set up to try citizens who are involved in civil disturbances in any part of the country.

Article 21 - Protection of the right of peaceful assembly

159. The right to peaceful assembly is recognized and guaranteed under section 37 of the Nigerian Constitution. There are, however, restrictions that exist to regulate and control assemblies. These restrictions are principally aimed at providing a means for maintenance of public order and public health and to protect the rights and freedoms of persons not taking part in a particular assembly. All persons in Nigeria are free to organize and participate in assemblies except to the extent to which the law may restrict this.

160. All assemblies, whether held in public or private places, are subject to the interests of public health, public morality and public safety. Law is also available to deal with situations where it is suspected that riotous behaviour or breach of the peace will otherwise occur. Thus, organizers of assemblies must seek permits from the police in advance in order to hold

assemblies. The police will then evaluate the purpose of the assembly and the nature of the assembly, and then either grant or deny the issuance of a permit if they feel that such assembly is bound to result in a riotous assembly or is a threat to public safety. In practice, the police have on most occasions granted such permits and have denied the issuance of such permits on very few occasions. This control is specifically aimed at maintaining law and order.

Article 22 - Protection of the right of freedom of association

161. Under the Nigerian Constitution, the provisions of articles 21 and 22 of the Covenant are contained in section 37 of the Constitution of the Federal Republic of Nigeria.

162. There are no restrictions in Nigeria on the right to freedom of association except in exceptional cases. Government, for instance, imposes restrictions on persons employed in the public service or civil servants in relation to the enjoyment of this freedom.

Article 23 - Right to found a family

163. The provisions of article 23 of the Covenant are fully reflected in the Constitution of the Federal Republic of Nigeria. Section 34 of the Constitution of Nigeria provides that "The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications are hereby guaranteed and protected." By this provision, the confidentiality of a family is protected by the State.

164. In Nigeria, the family is a fundamental social institution and its importance is given implicit and explicit recognition. The family is generally regarded as extended as opposed to nuclear and as such recognized by statute and covered by customary law.

165. Recently in Nigeria, the wife of the President and Commander-in-Chief of the Armed Forces inaugurated a programme called the Family Support Programme to give every family in Nigeria the natural and fundamental ties necessary for its continuity and togetherness. This is in recognition of article 23 of the Covenant.

166. There is constitutional protection for the correspondence of the family, their telephone conversations and telegraphic communications. There is no record of any breach of this constitutional provision in Nigeria except in circumstances prescribed by the Law.

167. The Nigerian society also recognizes the right of men and women of marriageable age to marry and to found a family. There are statutes in existence which provide procedures and protection for such marriages. In those statutes are also prohibitions concerning compulsion to enter into or to withdraw from such marriages. Principally, Nigeria has the Marriage Act, which is now Cap 218 of the Laws of the Federation of Nigeria 1990, and the Matrimonial Causes Act. Under these two laws, there is no provision for compulsory marriage. In fact, marriages entered into without the free consent of the parties are regarded as void under Nigerian Law.

168. In Nigeria, there are three types of marriages: statutory, customary and Islamic. The right to marry under the statutory law is governed by the Matrimonial Causes Act and the Matrimonial Causes Rule. The right to marry and the procedures for marriage are regulated by those Acts as are the provisions applicable to dissolution of marriage, maintenance and custody of children. In accordance with customary law, however, there are no restrictions relating to age so long as the parties concerned have attained marriageable age. Customary law marriages are also potentially polygamous and dissolution of a marriage contracted under customary law and maintenance of any children born of such a marriage depend on the customary law under which the marriage was contracted. Under the Islamic faith, every Muslim has the right to marry up to four wives provided the man can take care of the wives equally. This is provided for in chapter IV, section 3, of the Qur'an. Islamic marriage is equally polygamous in nature.

169. Nigerian law recognizes the right of a Nigerian to marry a foreigner and where the foreign partner is a female, she is recognized as a citizen of Nigeria by registration. This is provided for in section 24 (2) (a) of the Constitution of the Federal Republic of Nigeria as amended. Under section 24 (1) of the Nigerian Constitution, when a foreign man marries a Nigerian woman, he has initial citizenship called citizenship by registration if (a) he is a person of good character; (b) he has shown a clear intention of his desire to be domiciled in Nigeria; (c) he has taken the oath of allegiance prescribed in the sixth schedule to the Nigerian Constitution.

170. Under section 25 of the Constitution of the Federal Republic of Nigeria as amended, either of these parties can convert his citizenship from registration to naturalization if (a) he or she is a person of full age (18) years; (b) he is a person of good character; (c) he has shown a clear intention of his desire to be domiciled in Nigeria; (d) he is, in the opinion of the Governor of the State where he or she proposes to be resident, acceptable to the local community and has been assimilated into the ways of life of Nigeria in that part of the country; (e) he is a person who is capable of making useful contribution to the advancement and progress of Nigeria; (f) he has taken the oath of allegiance prescribed in the Constitution; (g) he has been resident in Nigeria continuously for a minimum of 15 years prior to his time of application for naturalization. It is pertinent to note that citizenship by naturalization is not destroyed with the dissolution of the marriage.

171. By virtue of the provisions of section 15 of the Matrimonial Causes Act, the custody of the children at the dissolution of a marriage is the paramount consideration before the court of law.

Article 24 - Protection of young persons from exploitation

172. The Federal Republic of Nigeria recognizes the full intent of article 24 and accorded the children their full rights in the society. Section 33 (13) (a) of the Constitution of the Federal Republic of Nigeria provides thus:

> "... provided that a court or such a tribunal may exclude from its proceedings persons other than parties thereto or their legal

practitioners in the interest of defence, public safety, public order, public morality, the welfare of persons who have not attained the age of 18 years, the protection of the private lives of the parties or to such extent as it may consider necessary by reason of special circumstances in which publicity would be contrary to the interest of justice."

The import of this section is that when a minor is involved in the commission of a crime, his or her welfare is given prime consideration in the nature of his or her trial to such an extent that the trial may be conducted in camera. This procedure is recognized by the Children and Young Persons Act.

173. The purpose of the trial of a minor for crimes committed is not to bring the full weight of the law on the child but to reform the child. This purpose has been given a statutory recognition in section 4 (1) of the Borstal Institutions and Remand Centres Act, Cap 38, Laws of the Federation of Nigeria 1990.

174. For the purpose of ascertaining who is a minor and when he has attained majority, section 33 (13) (a) of the Nigerian Constitution states that "Majority is attained at the age of 18 years." For the purposes of identity, the registration of birth of children is compulsory in Nigeria and this is provided for in the Birth and Death Compulsory Registration Act, Cap 36, Laws of the Federation of Nigeria 1990. Section 1 (1) of this Act states: "Notwithstanding the provisions of any laws relating to the registration of births and deaths, the registration of births and deaths shall as from 1 September 1979 be compulsory in all cases and such registration shall be effected as provided under the aforementioned laws and in the following provisions of this Act." Nigerian law also accords children the right to have a nationality. This is provided for in section 23 of the Nigerian Constitution.

175. The following persons are citizens of Nigeria by birth: (a) every person born in Nigeria before the date of independence whose parents belongs or belonged to a community indigenous to Nigeria, provided that a person shall not become a citizen of Nigeria by virtue of this section if neither of his parents nor any of his grandparents were not born in Nigeria; (b) every person born in Nigeria after the date of independence either of whose parents or any of whose grandparents is a citizen of Nigeria; and (c) every person born outside Nigeria either of whose parents is a citizen of Nigeria.

Article 25 - Right to participate in the affairs of one's country

176. The Constitution of the Federal Republic of Nigeria confers on citizens of Nigeria who have attained majority on the basis of equality the right to participate in the management of State and public affairs and in the discussion and adoption of laws and decisions of State. This right is secured by the opportunity to vote and be voted for. The people's will shall be expressed within the framework of an elective parliament and the elections conducted in electoral commissions set up by the Government, returning the name of the person who has won after a secret ballot.

177. Citizens of Nigeria who have attained or reached the constitutional age of 18 years shall have the right to vote.

178. This political right of the citizens is one of the fundamental and directive principles of State policy in Nigeria and it has been given constitutional recognition by virtue of the provisions of section 15 of the Constitution, section (2) of which states: "... Accordingly, national integration shall be actively encouraged whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited."

179. Generally, the right to be voted for in Nigeria is dependent on the office one is seeking. Anybody seeking to be the governor of any of the States in Nigeria must attain the age of 35 years; this is provided for in section 163 of the Constitution of the Federal Republic of Nigeria as follows: "A person shall be qualified for election to the office of Governor if: (a) he is a citizen of Nigeria by birth; (b) he has attained the age of 35 years. However, a Nigerian citizen seeking to be a member of the House of Assembly is qualified to be voted for if he has attained the age of 21 years. This is provided for in section 100 of the Nigerian Constitution. Also, any Nigerian citizen who has never been convicted of any criminal offence and has attained the age of 35 years can contest the election for the post of the President, Commander-in-Chief of the Armed Forces. This is provided for in section 123 of the Nigerian Constitution.

180. Participation in Nigerian politics is given a prime place in the Constitution and the State puts regulations in place to check corrupt practices and abuse of power. Section 15 (15) of the Nigerian Constitution provides that "... the State shall abolish all corrupt practices and abuse of power". Pursuant to the provision of this section and in order to foster a feeling of belonging and of involvement among the various people of the federation, the Federal Government of Nigeria ensures that political parties cut across ethnic, linguistic, religious and other sectoral barriers. This is to eliminate discrimination in any form in the practice and operation of politics in Nigeria.

181. In terms of access to public service, admission to federal institutions and employment in the Federal Civil Service are done on a quota basis to give each State the right of place in the country. To ensure the realization of this policy, a commission for employment in charge of each State was set up by the Government called the Federal Civil Service Commission. There is also a State Civil Service Commission. A commissioner is appointed to head each State and ensure fair recruitment of individuals.

182. The Government of the Federal Republic of Nigeria is making strenuous efforts to return the country to civil rule by setting up various commissions and committees such as: the National Electoral Commission of Nigeria headed by Chief Dagogo Jack; the Transition Implementation Committee headed by Retired Justice Mamman Nassir; the State Local Government Boundary Adjustment Panel headed by Chief Arthur Mbanefo; the National Reconciliation Committee headed by Chief Alex Akinyele; and the Federal Character Commission headed by Adamu Fika.

Article 26 - Non-discrimination

183. The principle that the citizens of the Federal Republic of Nigeria are equal before the law and are guaranteed the observance and unimpeded exercise of all the rights and freedoms provided for in international legal instruments, irrespective of sex, racial and national extraction, religion, state of origin, political convictions and other circumstances, is laid down in many sections of the Constitution of the Federal Republic of Nigeria.

184. Section 33 (1) of the Nigerian Constitution guarantees citizens' equal right in the determination of their civil rights and obligations with respect to each other or to the Government, and the power to adjudicate such matters is vested in the court established by the Nigerian Constitution which provides in section 6 (6) (b) that "the judicial powers vested in accordance with the foregoing provisions of this section shall extend to all matters between persons or between government authority and any person in Nigeria and to all actions and proceedings relating thereto for the determination of any question as to the civil rights and obligations of that person".

185. Equality before the law is given its clear application in section 42 (1) of the Constitution of the Federal Republic of Nigeria. It provides that "any person who fears or alleges that any of the provisions of this Chapter is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress".

186. By the express provision of section 33 (1), section 6 (6) and section 42 (1), therefore, there is equality of access to courts in Nigeria.

187. Discrimination against women has been taken care of in Nigeria. Hence, the establishment of National Commission for Women which culminated in the establishment of the Ministry of Women Affairs and Social Welfare in 1995.

188. Even though the Nigerian Constitution did not define what is discrimination, unreasonable restriction with double standards, which is the import of discrimination, is forbidden in Nigeria in all spheres.

189. It is pertinent to point out that equality before the law does not necessarily mean differentiation in treatment where State security dictates otherwise. Section 17 (1) of the Constitution of the Federal Republic of Nigeria provides that the State social order is founded on ideals of freedom, equality and justice. In furtherance of the social order:

(a) Every citizen shall have equality of rights, obligations and opportunities before the law;

(b) The sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced;

(c) Governmental actions shall be humane;

(d) Exploitation of human or natural resources in any form whatsoever for reasons other than the good of the community shall be prevented;

(e) The independence, impartiality and integrity of courts of law and easy accessibility thereto shall be secured and maintained.

Article 27 - Protection from racial discrimination

190. Nigeria is a multinational country with over 250 ethnic groups resident within 30 states of the Federation, including Abuja. Prior to Nigeria's independence, one of the greatest problems was fear of the minority and this led to the establishment of the Willink Commission in 1957 to ascertain how to alleviate these fears. The Commission reported that the best way to protect the minority tribes and ethnic groups in Nigeria is not to give each of them a state but to accord the individual person all the rights of a human being and to lift those rights to the status of a fundamental law. This led to the introduction of Fundamental Human Rights in the Nigerian Constitution of 1960 contained in sections 18-20. Under the 1979 Constitution, these rights were still treated as fundamental rights and were expanded. A procedure for their enforcement was constitutionally entrenched.

191. Consequently, Nigeria has not adopted any indigenous language as the national lingua franca. Every tribe has its own language and it is free to profess and practise that language and its culture in any part of the country.

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